

AMENDMENT NO. \_\_\_\_\_

\_\_\_\_\_  
**Signature of Sponsor**

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 863 House Bill No. 1474**

by deleting all of the language after the enacting clause and by substituting instead the following:

Section 1. Tennessee Code Annotated, Title 63, is amended by deleting Chapter 18 in its entirety and by substituting instead Sections 2 through 17 of this act as new Chapter 18.

Section 2. This chapter shall be known and may be cited as the "Massage Licensure Act of 1995".

Section 3. As used in this chapter, unless the context otherwise requires:

(a) "Board" means the massage licensure board;

(b) "Compensation" means the payment, loan, advance, donation, contribution, deposit or gift of money or anything of value;

(c) "Massage/bodywork somatic" means the manipulation of the soft tissues of the body with the intention of positively affecting the health and well-being of the client;

(d) "Massage establishment" means a place of business wherein massage is practiced; and

(e) "Massage therapist" means a person who practices massage for compensation and is licensed by the board.

Section 4.

(a) There is hereby created the Tennessee massage licensure board.

AMENDMENT NO. \_\_\_\_\_

\_\_\_\_\_  
**Signature of Sponsor**

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 863 House Bill No. 1474**

(b) The board shall be composed of seven (7) members who are residents of the state. Except for a citizen member, each member shall have at least three (3) years current experience in the practice of massage. Persons with a conflict of interest are ineligible for membership on the board.

(c) All members shall be appointed by the governor. Initial appointments to the board shall be as follows:

(1) Three (3) members shall serve terms of one (1) year; and

(2) Four (4) members shall serve terms of two (2) years.

(d) Except for one (1) member who shall be a citizen member with no financial interest in massage, all board members shall be duly licensed or eligible to be licensed by the board.

(e) Subsequent appointees to the board shall have the professional qualifications required by their predecessors and shall be appointed to two-year terms. Each member shall serve until his or her successor is appointed and qualified, unless such board member is no longer competently performing the duties of office. Any vacancy on the board shall be filled by the governor for the balance of the unexpired term. The governor may remove members of the board from office for cause.

(f) For each day engaged in the business of the board, a member shall receive as compensation fifty dollars (\$50.00), and shall also receive actual

AMENDMENT NO. \_\_\_\_\_

\_\_\_\_\_  
**Signature of Sponsor**

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 863 House Bill No. 1474**

expenses to be paid in accordance with the comprehensive travel regulations promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

(g) The members of the board shall elect annually a chair and a secretary/treasurer.

(h) The board shall meet as frequently as shall be reasonably necessary to implement the provisions of this chapter. Four (4) or more members of the board shall constitute a quorum for the purpose of transacting board business.

(i) For administrative purposes, the board shall be attached to the division of health-related boards as defined in § 68-1-101, herein referred to as "division", which shall supply support.

Section 5.

(a) Persons or massage establishments engaged in massage for compensation shall be licensed by the massage licensure board.

(b) Any person who has applied to take the National Certification Examination in Therapeutic Massage and Bodywork, or an equivalent certification, and whose application to take such examination has been accepted, may receive a provisional license by the board not to exceed six (6) weeks beyond the examination date.

AMENDMENT NO. \_\_\_\_\_

\_\_\_\_\_  
**Signature of Sponsor**

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 863 House Bill No. 1474**

(c) Any person or establishment who advertises or engages in massage for compensation without a current valid license from the massage licensure board commits a Class B misdemeanor. It is unlawful to use the word “massage” or any other term that implies massage technique or method when advertising a service by a person who is not licensed under this chapter or another chapter of the state law.

Section 6.

(a) The board shall establish procedures and criteria for the issuance of licenses to persons and establishments engaged in massage for compensation.

(b) No person or establishment shall be issued a license until the applicant and each person engaged in massage at such massage establishment has provided evidence satisfactory to the board that:

(1) The applicant is eighteen (18) years or older;

(2) The applicant has not been convicted of the offense of prostitution or sexual misconduct, or felony under the laws of this state;

(3) The applicant has either:

(a) successfully completed the curriculum or curriculums of one or more post secondary, academic institutions(s) for massage, bodywork, and/or somatic therapy totaling five hundred (500) hours or more, such

AMENDMENT NO. \_\_\_\_\_

\_\_\_\_\_  
**Signature of Sponsor**

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 863 House Bill No. 1474**

institutions being approved by the Tennessee Higher Education Commission or its equivalent in other states; or

(b) received the designation of "Nationally Certified" or "Internationally Certified" by the National Certification Board of Therapeutic Massage and Bodywork or other massage therapist certifying agency approved by the National Commission for Certifying Agencies; or

(c) documented upon the effective date of this act, active membership in good standing of the American Massage Therapy Association, professional membership in the Associated Bodywork and Massage Professional, or membership in the Tennessee Massage Therapy Association presented to the satisfaction of the board within six (6) months of the effective date of this act; or

(d) accrued, prior to the effective date of this act, five hundred (500) hours of documented experience as a massage therapist with the documented experience presented to the satisfaction of the board within six (6) months of the effective date of this act; and

(4) All required fees have been paid.

Section 7. In order to effectuate the provisions of this chapter, the board or its authorized representative is empowered to conduct investigation of persons engaged in massage or massage establishments and to inspect the license of practitioners and

AMENDMENT NO. \_\_\_\_\_

\_\_\_\_\_  
**Signature of Sponsor**

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 863 House Bill No. 1474**

establishments for compliance. The refusal of a practitioner or establishment to permit inspections shall be grounds for revocation, suspension or refusal to issue a license pursuant to this chapter.

Section 8. The board has the power and authority to enter into any court of this state having proper jurisdiction to seek an injunction against any person or massage establishment not in compliance with the provisions of this chapter, and is further empowered to enter into nay such court to enforce the provisions of this chapter in order to ensure compliance with such provisions.

Section 9. The license of a massage therapist may be revoked, suspended or annulled by the board for any of the following:

- (a) The license is guilty of fraud in the practice of massage, or fraud or deceit in the licensee's admission to the practice of massage;
- (b) The licensee has been convicted in a court of competent jurisdiction of an offense which constitutes a felony under the laws of this state;
- (c) The licensee is engaged in the practice of massage under a false or assumed name, or is impersonating another practitioner of a like or different name;
- (d) The licensee is addicted to the habitual use of intoxicating liquors, drugs or stimulants to such an extent as to incapacitate such person's performance of professional duties;

AMENDMENT NO. \_\_\_\_\_

\_\_\_\_\_  
**Signature of Sponsor**

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 863 House Bill No. 1474**

(e) The licensee is guilty of fraudulent, false, misleading or deceptive advertising, or for prescribing medicines or drugs, or practicing any licensed profession without legal authority;

(f) The licensee is guilty of willful negligence in the practice of massage, or has been guilty of employing, allowing or permitting any unlicensed person to perform massage in such licensee's establishment;

(g) The licensee has violated any of the provisions of this chapter or any substantive rule promulgated under the authority of this chapter; or

(h) The licensee has been convicted of sexual misconduct, assignation or the solicitation or attempt thereof.

Section 10.

(a) Charges relative to a violation of this chapter may be presented by any person, or the board may, on its own motion, direct the chair of the board to present charges. An accusation may be filed with the chair of the board, charging any licensed massage therapist with any of the offenses enumerated in Section 9 of this act.

(b) The board shall provide applicants denied issuance of a license or practitioners whose license is suspended, revoked or not renewed, a hearing on such suspension, revocation or nonrenewal, which hearing shall be conducted pursuant to the provisions of the Uniform Administrative Procedures Act compiled

AMENDMENT NO. \_\_\_\_\_

\_\_\_\_\_  
**Signature of Sponsor**

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 863 House Bill No. 1474**

in Title 4, Chapter 5. Upon a decision of the board to refuse to issue, revoke or not to renew a license, the practitioner or establishment shall be prohibited from engaging in massage until the board's decision is overturned.

Section 11.

(a) Any person granted an exemption under this chapter is effective only to the extent that the bona fide practice of the profession or business that is licensed, certified, or registered under the laws of this state overlaps into the field comprehended by this chapter, and exemptions under this chapter are only for those activities which are performed in the course of the bona fide practice of the business or profession of the person exempted;

(b) Persons exempt under Section 11(a) include, but are not limited to: any branch of medicine, nursing, osteopathy, chiropractic, podiatry, and also barbers, cosmetologists, athletic trainers, physical and occupational therapists;

(c) Any student of a Tennessee Higher Education Commission-authorized massage school or public school of this state provided the student does not hold himself or herself out as a licensed massage therapist and does not receive compensation for massage; and

(d) Nothing in this part shall apply to massage therapists licensed in other states or countries or meeting standards set forward in Section 6 of this act

AMENDMENT NO. \_\_\_\_\_

\_\_\_\_\_  
**Signature of Sponsor**

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 863 House Bill No. 1474**

when providing educational programs or services for a period of time not to exceed thirty (30) days within a calendar year.

Section 12.

(a) The board is hereby authorized to promulgate, in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in Title 4, Chapter 5, such rules and regulations as are necessary to implement the provisions of this chapter.

(b) The board may adopt reasonable rules and regulations regarding personal cleanliness of massage therapists, and the sanitary condition of towels, linen, creams, lotions, oils and other materials, facilities and equipment used in the practice of massage.

(c) All fees for licensure, renewal of licensure, and all other related matters shall be set by the board.

(d) All continuing education and other requirements for renewal of licensure not enumerated in this chapter shall be set by the board.

Section 13. The board may, at its discretion, grant licensure to any person who is licensed or registered in another state or country with standards as stringent as those required by the provisions of this chapter.

Section 14. Notwithstanding any provisions of law to the contrary, the act of a duly licensed massage therapist in performing a massage shall be deemed to be

AMENDMENT NO. \_\_\_\_\_

\_\_\_\_\_  
**Signature of Sponsor**

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 863 House Bill No. 1474**

medically therapeutic in nature and shall not be subject to the collection of any form of state or local taxation regulations not also imposed on other medically therapeutic activities.

Section 15. If any provisions of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

Section 16. Tennessee Code Annotated, Section 4-29-218(a), is amended by adding a new item thereto, as follows:

( ) Massage licensure board, created by Section 4 of this act;

Section 17. For the purpose of appointing members to the board and for promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes this act shall take effect October 1, 1995, the public welfare requiring it.